

OFFICIAL

RECEIVED
DATE 08/03/2004

Atty's Docket: Bayer: 10.10197.2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO.	: 09/402 737
APPLICANT	: NEUSER et al.,
FILED	: 8 October 1999
EXAMINER	: Konata George
ART UNIT	: 1616
FOR	: ANALGESIC COMBINATION

 fees processed

Commissioner of Patents
PO BOX 1450
Alexandria, VA 22313-1450

July 21, 2004

RESPONSE AND AMENDMENT UNDER RULE 116

Sir:

This communication is in response to the office action of June 7, 2004.

Entry of the amendments and consideration of the remarks are respectfully requested.

08/03/2004 CBETANCO 00000003 141263 09402737

01 FC:1202 144.00 DA

Atty's Docket: Bayer: 10,10197.2

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Applicants request that this be considered a petition therefore. Please charge the required fee to Deposit Account No. 14-1263.

ADDITIONAL FEES

Please charge any further insufficiency of fees, or credit any excess to Deposit Account No. 14-1263.

REMARKS

Claims 1-28 are pending.

Claims 10, 11, 14 and 28 have been allowed, and claims 5-7, 19, 21, and 24-27 are objected to.

Claims 1-4, 8-9, 12-13, 15-18, 20, 22 and 23 are rejected.

Claims 1, 9, 13, 16, 22-23 and 28 have been amended to specify that the element A and element B have different *analgesic* compounds, rather than different *chemical* compounds.

No amendment is believed to add new matter.

It is believed that these amendments render the claims allowable in view of the final office action.

In the final action, Examiner indicates that Desai teaches a combination of locally acting and systemic analgesics, wherein the analgesics are two distinct chemical compounds. Further, Examiner correctly points out that the previous amendment recited different chemical compounds, not different analgesic compounds.

In response, claims 1, 9, 13, 16, 22-23 and 28 have been amended herein to specify that the element A and element B have different *analgesic* compounds, rather

Atty's Docket: Bayer: 10,10197.2

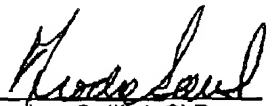
than merely different *chemical* compounds. In all cases where the term different chemical compounds appeared in the claims, the corresponding amendment was made.

In view of the foregoing remarks and amendments, It is respectfully requested that the rejection over Desai be withdrawn and the claims be allowed.

However, should Examiner still feel that there exist some minor issues to resolve prior to allowing the claims, he should feel free to contact the undersigned.

Respectfully Submitted,

Norris, McLaughlin & Marcus
220 East 42 nd Street
New York, NY 10017
Telephone (212) 808-0700
Facsimile (212) 808-0844


Theodore Gottlieb, PhD
Reg. No. 42, 597

Certificate of Transmission

I hereby certify that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office (Fax No. (703) 872-9307

on July 21, 2004
(Date)

Theodore Gottlieb
Typed or printed name of transmitter

Signature 